January 23, 2004

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
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REPORT AND RECOMMENDATION TO THE CITY OF KENT HEARING EXAMINER

SUBJECT: King County Department of Development and Environmental Services file nos. **S91P0004B, S91U0001B and L00MI091**
and City of Kent file nos. **SU-2001-9, ENV-2001-63, AP-2003-4**

COPPER RIDGE
Preliminary Plat, Planned Unit Development and SEPA Appeal

Location: East of 92nd Avenue South and north of South 208th Street

Applicant: Schneider Homes, Inc., *represented by*
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Hillis Clark Martin & Peterson
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SEPA Appellants: Coalition for Responsible Development,
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City of Kent: *Represented by* **Kim Marousek**
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King County: Department of Development and Environmental Services
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SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to revised conditions
Examiner's Decision on SEPA Appeal:	Deny
Examiner's Decision on Preliminary Plat & PUD Applications:	Approve, subject to revised conditions

EXAMINER PROCEEDINGS:

Hearing Opened:	December 9, 2003
Hearing Closed:	December 19, 2003

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **General Information**:

Owner/Developer:	Schneider Homes Inc. 6510 Southcenter Blvd. Tukwila, WA 98188 (206) 248-2471
Engineer:	Mel Daley DMP Engineering Inc. 726 Auburn Way North (253) 333-2206
STR:	SE 6-22-5
Location:	Generally east of 92nd Avenue South and North of South 208th Street in Kent
Zoning:	(SR-9600) 4.5 du/acre
Acreage:	9.64
Number of Lots:	40
Density:	4.15 du/acre
Proposed Use:	Attached single family residences
Sewage Disposal:	Soos Creek Water & Sewer District
Water Supply:	Soos Creek Water & Sewer District
Fire District:	King County Fire District No. 37
School District:	Kent School District
Application Date:	January 31, 1991

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the December 9, 2003, public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions. Revisions to page 13 of the DDES staff report appear at Exhibit no. 66.

Procedural History

3. As presently configured, Schneider Homes Inc. is proposing to develop 40 lots on 9.64 acres for triplex and fourplex townhouse development. The application also seeks planned unit development approval for the townhouse development and reduced lot areas. The vesting date for the application is January 31, 1991, which subjects the application to the since-repealed Title 21 King County Zoning Ordinance and other County regulations in effect at that time. The property is located on a hillside on the eastern edge of the Kent valley and in 1993 was annexed to the City of Kent.

4. The Copper Ridge application has a lengthy and contentious procedural history. After the application was filed in 1991, the King County Building and Land Development Division, the predecessor to the Department of Development and Environmental Services (DDES), issued a determination of significance under SEPA on July 14, 1992. The DS was issued primarily on the basis of alleged school impacts and on appeal by the Applicant was reversed by the County hearing examiner within a March 17, 1993, decision. The application was then remanded for further review under SEPA, and before that review was completed the property was annexed to the City of Kent in May 1993. An interlocal agreement was concluded between Kent and King County in 1996 for the general processing of land use and building permit applications that were pending at the time of various annexations. With specific respect to Copper Ridge, however, the City of Kent declined to process the PUD portion of the application. This led to a lawsuit and a 1997 Court of Appeals decision which held under authority of RCW 58.17.033 that the Copper Ridge application was vested to both the platting and PUD provisions of the 1991 County zoning code and that these vested rights were unaffected by the annexation.

5. A 1999 settlement agreement between Kent and Schneider Homes established the format for completion of review of the Copper Ridge application, with a hearing to be held by the King County hearing examiner using the laws, ordinances and policies in effect on the property in 1991 at the time of application. These principles were also set out in a November 1, 2000, amendment to the interlocal agreement between Kent and the County that dealt specifically with Copper Ridge. Pursuant to this amendment, the hearing report by the County hearing examiner is to take the form of a recommendation to the City. As interpreted by a May 29, 2003, letter from the Kent City Attorney's office, the recommendation of the County hearing examiner is to go to the City of Kent hearing examiner for limited review, with any appeal therefrom directed to the Kent City Council. Based on State SEPA regulations, the City Attorney's office determined that any appeal of the Copper Ridge threshold determination should be combined with the hearing on the underlying permit.

6. The City of Kent issued a determination of non-significance under SEPA for the Copper Ridge proposal on August 11, 2003. This DNS was appealed by John Kastien, Edward Shemeta and other neighborhood residents organized under the rubric of the Coalition for Responsible Development (CRD). A pre-hearing conference was held by the King County hearing examiner on September 23, 2003, at the Kent City Hall on the consolidated preliminary plat and planned

unit development applications and SEPA threshold determination appeal. The pre-hearing order issued September 25, 2003, identified SEPA issues in the areas of traffic safety, site slope stability, surface water runoff, wetland and stream delineation and impacts to wildlife. The pre-hearing order also specified disclosure deadlines and set hearing dates. The public hearing on the consolidated applications and SEPA appeal was opened on December 9, 2003, at the Kent City Hall, continued to December 12, 2003, and concluded on December 19, 2003.

Sensitive Areas

7. The 1990 King County Sensitive Areas Map Folio shows bands of overlapping landslide and erosion hazard areas lying on the eastern half of the Copper Ridge property. In addition, a steep slope hazard area at gradients in excess of 40 percent lies near the southwest corner of the property, downslope from the proposed site detention and water quality pond facility. As mapped by the Applicant, this steep slope area appears to occupy about 19,000 square feet, although hearing testimony suggested that in actuality it may be smaller. Initial investigations had suggested the possibility that a wetland area and a regulated stream might exist on the site, but later analysis concluded that such was not the case. A Class 3 wetland lies downslope from the steep slope area but has been determined to be off-site.

8. The SEPA threshold determination appeal filed by the Coalition for Responsible Development raised sensitive areas issues regarding site slope stability, protection of wetlands and streams and impacts on area wildlife. Of these, only the slope stability issues were pursued by the Appellants at the hearing.

9. Some of the Appellants' concerns, and much of their sense of outrage, seems to be fueled by a fundamental misunderstanding as to how the 1990 King County Sensitive Areas Ordinance operates in assessing environmental impacts. Under Ordinance 9614, erosion and steep slope hazard areas are very broadly defined. As applied to this property pursuant to section 36 of the ordinance, the term "erosion hazard" refers to the presence of Alderwood soils on slopes of 15 percent or greater. Section 47 defines a "landslide hazard" as an area of 15 percent slopes interbedded with impermeable and granular soils or characterized by springs or groundwater seepage. And under section 68 a "steep slope hazard" is defined as a 40 percent slope with a 10 foot vertical elevation change. Based on these broad definitions, indicative classifications were represented on the 1990 map folio using available baseline geologic data.

   But the map folio is intended to be the beginning of analysis, not its conclusion. The presence of a mapped sensitive areas hazard on a property indicates that further site-specific analysis needs to be done. Nor is the presence of a mapped sensitive areas hazard intended in all cases to preclude development. The presence of an erosion hazard usually implies a limitation on site clearing during the winter wet season and the need to submit an erosion control plan. Steep slopes with or without landslide hazards are, on the other hand, to be left undeveloped under most circumstances with a perimeter buffer applied at a presumptive distance of 50 feet, which may be reduced to as little as 10 feet based on appropriate studies. It is not the intention of the ordinance that the generalized folio mapping information should trump site-specific study and analysis. With respect to the regulatory effect of the folio maps, section 11.A of the SAO provides that the "actual presence of absence of the features defined in KCC Title 21 as sensitive areas, as determined by King County, shall govern."

10. Section 5 of the Sensitive Areas Ordinance requires an applicant for a development proposal containing a sensitive area to "submit such special studies as are required by King County to adequately evaluate the proposal and all probable impacts." For Copper Ridge the County required the Applicant to perform a wetland study and a preliminary geotechnical study of site soils conditions focused on evaluation of landslide risks. While not specifically characterized as sensitive areas special studies, the wetland and geotechnical reports meet the requirements of Section 5 and, with appropriate updates, were accepted as satisfactory by DDES.

11. The SEPA Appellants have challenged the adequacy of the preliminary geotechnical engineering study performed for the site by Golder Associates, Inc., dated September 24, 1990. The study was based on a site reconnaissance plus fourteen test pits excavated with a backhoe to a 12 foot maximum depth. The study identified the predominant site soils as glacial tills underlain by advance outwash sands, determined that they were competent for construction purposes and also identified fill areas resulting from previous site usage. With respect to landslide hazards, the Golder study characterized the slopes as stable so long as adequate drainage facilities were installed and the proposed detention pond were lined. The study also proposes the maintenance of 25 foot setbacks from steep slope areas, major earthwork to be done in the dry season, and a geotechnical reevaluation prior to actual construction. The principal conclusions of the Golder study were verified by DDES staff geologist Larry West, who has visited the property a number of times in the last few years, and the geotechnical recommendations have been incorporated into the Applicant's site plans.

12. The SEPA Appellants have expressed skepticism that slope stability issues have been adequately addressed by the Applicant and DDES, and have offered a number of hypotheses in support of their position. As pointed out by Appellant John Kastien, slopes below the site along 92nd Avenue South experienced mudslides in 1990 and 1997. Mr. Kastien suggested that the 1990 slide was the result of rapid infiltration on the Copper Ridge site resulting from vegetation removal followed by a major rain storm. The 1997 slide was explained by nearby property owner Ronald Melby as the consequence of the installation across the hillside in the late 1980s of a sewer pipe within a gravel-lined trench. The trench apparently was neither installed with sectional flow barriers nor drainage diversion facilities. As a result, groundwater accumulated in the gravel trench and saturated the lower portions of the hillside, resulting in the blowout.

13. There is simply no question that steep slopes underlain by outwash sands can fail if the soils become saturated. That indeed is the principle insight underlying the Golder geotechnical recommendations for drainage control during major earthwork, for dry season excavations, and an impermeable pond liner. The Appellants have offered no evidence that the Golder recommendations will be insufficient to avoid saturation of soils on steep slopes, and the record is clear that the importance of avoiding such saturated conditions has been a foundational principle of the geotechnical analysis.

14. The Appellants also contend that placement of a drainage and wetpond facility in the southwest corner of the property, upgradient from the 40 percent slope area, creates a major risk of slope failure. They have suggested that the weight of the water in the pond, as well as the overflow pond condition in major storms, will cause the pond structure to collapse, imposing significant damage on downstream locations.

15. Construction of an R/D facility on competent soils lying on a 20 percent slope is not a major engineering challenge and has been successfully accomplished on many occasions throughout the

Puget Sound Area. The fact is that the pond water weight will be approximately one-half per unit of volume of the soils displaced, and structural pond walls and an impermeable pond liner will provide the slope with greater structural stability than it now experiences in the undeveloped state. Moreover, drainage ponds are expected to overflow during major storm events and are designed to accommodate the overflow condition. Section 4.4.4 of the 1990 King County Surface Water Design Manual provides detailed instructions for designing overflow mechanisms:

> "A pond overflow system must provide controlled discharge of the 100-year, 24-hour design storm event for developed site conditions without overtopping any part of the pond embankment or exceeding the capacity of the emergency spillway. The design must provide controlled discharge directly into the downstream conveyance system. This assumes the pond will be full due to plugged control structure inflow pipe and/or plugged restrictor/orifices conditions."

In other words, not only must the overflow mechanism be designed to accommodate the 100-year storm without overtopping the pond sides, but an emergency spillway must also be provided to relieve the primary overflow channel if it becomes blocked.

16. Also within the realm of geotechnical issues, area resident Richard Miller, in support of the SEPA Appellants' case, offered a hypothesis that onsite excavation might pierce an aquifer lying beneath the site and thereby perhaps pollute and dewater downgradient wells. This hypothesis is primarily based on the examination of two well logs lying north of the site, one at a distance of approximately 2000 feet and the second at 700 feet. There appears to be approximately 140 feet of difference between the water elevations in the two wells, and Mr. Miller has projected this gradient as a piezometric incline extending onto the Copper Ridge site. If this inferred incline were accurate, the upper end of an extensive aquifer would lie just beneath the Copper Ridge slopes. Supporting evidence for this hypothesis is presumed to include the existence of hillside seeps north of the Copper Ridge property.

17. While Mr. Miller's hypothesis is not inconceivable, it appears to be both highly speculative and quite unlikely based on known information. A water level drop of 140 feet between two wells only 1300 feet apart rather strongly suggests that the two wells are not in hydraulic continuity but rather are tapped into different ground water sources. Moreover, the known soils data for the Copper Ridge hillside is typical of glacial outwash formations, and the existence under the till layer of compacted outwash sands argues against extensive hydraulic continuity at the gradient suggested. The presence of springs on a steep hillside are more likely the consequence of upslope infiltration emerging as perched seeps, and the supposition of a thick clay layer capping a confined aquifer is unsupported by any known geologic data. A major layer of lacustrine clay would not be expected to occur on a glacial outwash hillside.

18. Mr. Kastien's concern for the stability of cut slopes beneath his house on the eastern edge of the Copper Ridge property is certainly understandable. The rockeries shown on the plat map schematic would simply function as erosion control facilities unless structurally engineered. While final design decisions have yet to be made, the geotechnical study clearly indicates that rockeries alone cannot serve as structural retaining walls and that any retaining walls installed will need adequate interceptor drains.

Drainage

19. Copper Ridge is vested to the standards contained in the 1990 King County Surface Water Design Manual. This document was superseded in 1998 by a new manual that contains a more detailed menu of detention and water quality treatment options. Because DDES staff at one point recommended that Copper Ridge construct a detention pond to provide Level 2 flow control under the 1998 manual and the Applicant declined to volunteer for the upgrade, the SEPA Appellants have surmised that construction of the plat to the lesser 1990 standard will result in adverse environmental impacts.

20. In order to evaluate this contention, it is necessary to briefly discuss the difference between the 1990 and 1998 Surface Water Design Manuals. The detention release rate provided in the 1990 manual requires the facility to match existing conditions with its post-development peak runoff rates for the 2 and 10 year, 24-hour duration design storm events. The Level 1 flow control under the 1998 manual likewise requires site release to match the existing condition for the 2 and 10 year peak events, while Level 2 control adds to the menu a duration control based on matching 50 percent of the 2 through 50 year storm events. The Level 2 control seeks to control peak durations to a level where they will not increase erosion within damaged or overcapacity stream channels. In addition to adding a duration control requirement, the principal difference between the 1990 and 1998 manuals inheres in their analytical methodologies. The 1990 manual is based on the Santa Barbara Urban Hydrograph, which is a single event model that assumes a drainage facility at the beginning of a storm event will be empty and preceding weather conditions dry. The 1998 manual, on the other hand, is based on the King County Runoff Time Series (KCRTS), which is a continuous flow model that analyzes a storm event more realistically as part of a chain of similar events. The fact that 1998 SWM facilities are larger than those required under the 1990 manual is mainly due to the shift to a continuous event modeling analysis.

21. It is undisputed that constructing a storm water drainage facility at Copper Ridge based on the 1990 manual will result in a pond capacity that is approximately one-third of that which would be required under the 1998 manual to achieve Level 2 flow control. The question to be answered is: what are the real-world consequences of this change? Clearly, the most obvious consequence is that the 1990 design pond will overflow more frequently than the 1998 Level 2 pond.

22. The question of the hydraulic effects of more frequent pond overflow has two aspects. There is the matter of the consequences for the downstream conveyance ditch and culvert system, then there is the further issue of the effect on the ultimate downstream natural receiving body—in this case the Garrison Creek system. Looking at the downstream conveyance system for Copper Ridge, the following elements stand out. First, Copper Ridge has very little in the way of upstream flows to be conveyed through the site. The drainage system for Valley View Heights on the plateau above the hillside is channeled through a different conveyance system. Second, there is also little in the way of development downstream of Copper Ridge to contribute additional developed runoff flows to the conveyance system; therefore, the conveyance system will not be burdened by other significant developed area surcharged flows. Third, as detailed in the Applicant's downstream analysis, the existing downstream system is constrained both by a few undersized culverts and by sections of under-capacity channel. The staff recommendation for Level 2 flow control was predicated on the perceived need to not overtax these constraints within the existing downstream conveyance system.

23. Limitations in the downstream conveyance system can be mitigated in one of two ways. Either the detention pond can be enlarged and the peak flow release attenuated so as not to increase the peak flows to the undersized downstream facilities, or the downstream facilities themselves may be upgraded. DDES staff suggested initially the former approach, but the Applicant has opted for the latter. The Applicant proposes to replace the undersized culverts and regrade the downstream channels where necessary to increase their capacity. But the net result will be the same. The downstream conveyance system will have adequate capacity to handle the peak flows from Copper Ridge.

24. The impact on the Garrison Creek system is a different sort of question. The nine plus acres of Copper Ridge constitute 3.27 percent of the 295 acre Chestnut/Garrison sub-basin that empties into Garrison Creek at the SR 167 culvert. Use of the 1990 Surface Water Design Manual standard for design of the detention facilities for Copper Ridge would increase the level of Garrison Creek less than one-quarter inch for the 100 year storm event. In other words, the impact of Copper Ridge in this much larger sub-basin will be negligible. The SEPA Appellants have also suggested that regional drainage facilities constructed within the Garrison Creek system may be adversely impacted by increased flows from Copper Ridge. Without knowing precisely where these facilities area located and what the flows are at these locations, it is hard to evaluate this information. It appears probable that at least some of these facilities may be on Garrison Creek upstream of the SR 167 culvert, in which case Copper Ridge runoff would not pass through these structures at all. In any event, no evidence has been provided that the minor increase in flows resulting from Copper Ridge will have an adverse impact to either Garrison Creek or its regional drainage facilities.

25. Issues of water quality impacts have also been raised. In this respect it is important to note that the Applicant has in fact volunteered to meet the 1998 standard for water quality treatment. The 1998 manual's basic water quality menu provides an array of options for water quality treatment, including water quality ponds and vaults, biofiltration swales and sand filters. The Applicant has indicated preliminarily that it will opt for a combined wet pond and detention pond whereby water quality treatment is provided within a permanent pool of dead storage at the bottom of the facility. These facilities are designed to remove 80 percent of total suspended solids within the project surface water flows on an annual basis. While the Appellants have questioned whether the 80 percent target can be met in the context of a 1990 R/D facility, as Mr. Shemeta noted most of the pollutants are contained in the first half inch of rainfall after a dry spell. This pollutant-laden first flush will always receive water quality treatment, and that which is bypassed through overflow will be limited to the less-polluted later flows.

Traffic

26. The truly difficult issues concerning development of Copper Ridge relate to site access and traffic safety. The property lies northeast of the intersection of 92nd Avenue South and South 208th Street, with frontage on both roads. From the east South 208th Street descends the hillside from the intersection at South 212th Street/96th Avenue South along a winding route that includes grades as steep as 16 percent. The original traffic study performed for the project in 1991 stated that South 208th Street "can be classified as mountainous between 92nd Avenue South and 96th Avenue South." Due to the road's curvature the portion of South 208th Street adjacent to the site is constrained with entering sight distance limitations on the downhill or west side. Even though a narrow two-lane roadway with limited shoulders, South 208th Street is classified as a

neighborhood collector and in fact performs at an arterial level transporting vehicles during commuter hours between the South 212th Street and 84th Avenue South corridors.

27. Because of the sight distance problems on South 208th Street, the initial traffic study also considered providing site access on the property's west side on 92nd Avenue South at the base of the slope. Although 92nd Avenue South has a flatter gradient, site access from that location was rejected due to the necessity of traversing onsite slopes in excess of 20% and because of limited entering sight distances to the east at the South 208th Street/92nd Avenue South intersection. The initial recommendation by the traffic study was a preference for development of the South 208th Street access with the roadway to be widened for an uphill left turn lane into the project.

28. The eventual parameters for the entry road design were set by a March 2, 1992, road variance issued by the County Road Engineer. In lieu of a left turn lane, this road variance provided for the widening of the South 208th Street roadway to the south to improve entering sight distances to 385 feet to the west, rural standard frontage improvements on both South 208th and 92nd Avenue South, and extension of the internal road cul-de-sac length to 950 feet with fire marshal approval. After considerable internal debate, County staff concluded recently that the 1992 road variance remains valid for review of the current application.

29. Everyone seems to agree that approximately 70 percent of Copper Ridge peak hour traffic will travel to and from SR 167 northbound via its South 212th Street ramps, but there has been diversity of opinion as to how such traffic will arrive there. The 1991 traffic study was predicated on 79 percent of Copper Ridge's traffic traveling on South 208th Street uphill to the east, while the Applicant's more recent traffic studies have come to an opposite conclusion and only distribute 3 percent of site peak-hour trips to the uphill route. The route up South 208th Street to the 96th Avenue South/212th intersection, then back downhill west to the SR 167 interchange is the shorter alternative. But based on Puget Sound Regional Council studies traffic engineers now believe that the downhill route on South 208th Street west to 84th Avenue South, then left to 212th Street and left again to the SR 167 interchange will be a quicker and more attractive alternative for Copper Ridge traffic. Certainly this rationale is compelling for the AM peak hour. For morning peak hour traffic exiting Copper Ridge to utilize the uphill route, it would be required to turn left across the dominant traffic flow. As Mr. Shemeta has argued, this is probably not an attractive option because the signal uphill at South 212th Street/96th Avenue South fails to effectively platoon traffic down the hill. The 20-second signal phase for southbound 96th Avenue South traffic provides an effective platoon only if there are minimal right turns from 96th Avenue South to South 208th. Accordingly, it is not unreasonable to conclude that AM peak hour traffic from Copper Ridge will prefer to turn right into the dominant traffic flow and take the longer route to the SE 167 intersection via 84th Avenue South.

    On the other hand, trip distribution choices for the PM peak hour are less clearly one-sided, although the initial right-hand turn from the SR 167 ramp onto South 212th Street to the 84th Avenue South route may provide an attractive initial option supporting the longer return trip. But the deciding factor here is less likely to be the inconvenience of left turns and more a question of whether eastbound congestion on South 208th Street is expected to be worse than that on South 212th.

30. In addition to the conundrum over trip distribution, the Applicant's traffic studies over time appear to apply increasingly less defensible traffic growth rates. Christopher Brown's 1991 study for the Applicant employed a growth rate annually of 2.74 percent, which had decreased to

1.24 percent in 2001 and a barely discernable 1.01 percent in the 2003 traffic study update. This last figure was apparently based on traffic counts on SR 167 just south of its 43rd Street interchange near the northern Kent city limit. By way of comparison, the February 2002 Kittleson and Associates traffic study for the South 212th Street Retail Center employs an annual growth rate of 3.5 percent based on South 212th Street historical figures.

Moreover, the Applicant's low traffic growth rates are inconsistent with its own traffic counts for South 208th Street in the immediate vicinity of Copper Ridge. The traffic counts provided by the Applicant in its three most recent studies show eastbound PM peak hour traffic on South 208th Street adjacent to the site increasing nearly 50 percent between February 2001 and October 2003. In addition, the PM westbound non-peak direction flows on South 208th Street next to the site increased approximately 40 percent between 2002 and 2003 according to the Applicant's traffic counts. In short, regardless of what may be happening on SR 167 near the Renton boundary, South 208th Street itself appears to have undergone significant peak hour traffic increases within the last few years.

31. Happily for the Applicant, the conjecture surrounding traffic distribution in the neighborhood of Copper Ridge, its evolving patterns and volumes, and the contribution of the plat proposal to existing problems becomes much less critical with the construction of the South 212th Street Retail Center near the SR 167 interchange. The only clearly identified level of service F problem on the nearby supporting arterial system occurs at the SR 167/South 212th Street northbound ramp in the PM peak hour. Copper Ridge will contribute more than 10 peak direction trips to this intersection in the PM peak hour and thus exceed the 1989 Road Adequacy Standards mitigation threshold. However, the new retail center is in the process of providing substantial upgrades to this intersection which will improve it to a LOS D condition for the PM peak hour, thus alleviating any need for Copper Ridge to mitigate traffic impacts.

The only other intersection of potential importance to Copper Ridge from a level of service standpoint would be 84th Avenue South/South 212th Street, which is predicted by the Applicant to operate at a level of service E in the 2006 project year with an average vehicle delay of 60 seconds. If the SR 167 ramp upgrades become a magnet for more traffic, and if the Applicant's traffic growth rates are as understated as they appear to be, the 2006 level of service at this intersection could prove to be worse than predicted and edging toward an unacceptable level. Based on current information, however, such a conclusion is at this point purely speculative. Finally, employing the currently accepted trip distribution, the signalized intersection at South 212th Street/96th Avenue South will not be impacted by 10 peak hour/peak direction trips from Copper Ridge and overall will operate at an acceptable level of service.

32. The traffic and pedestrian safety issues that affect Copper Ridge are both more localized and clearly defined than the regional level of service impacts. As suggested above, the combination of road curves, steep gradients, limited entering sight distances and excessive speeds raises a number of safety concerns, particularly when combined with inclement weather conditions. Both the Kent School District and area residents have been adamant in their assertions that adverse winter weather conditions have a greater effect on South 208th Street in the hillside section adjacent to Copper Ridge than at almost any other nearby location. The section of South 208th Street between 92nd Avenue South and 96th Avenue South is regarded as extremely dangerous in icy conditions and is reported to be the first road to be closed during a winter storm.

33. These concerns are buttressed by the accident history for South 208th Street at the 92nd Avenue South intersection and uphill to the east. Mr. Brown's analysis of the accident history for the last four years describes an accident rate of 22.6 accidents per million vehicle miles of travel within the 300 foot road section east of 92nd Avenue South on 208th. An accident rate of over 6 mvm exists for the second 300 foot segment east of 92nd Avenue South. For the remainder of South 208th Street between 84th Avenue South and 96th Avenue South the accident rate is below 1 mvm, with the overall King County average reposing at 2.7 mvm. Mr. Brown concluded correctly that the high accident rate in the 300 foot section directly east of 92nd Avenue South is "not due to chance alone but, rather,… due to the roadway itself." Based on this data, the Applicant has offered to contribute a pro-rata share to a traffic calming device such as a traffic circle at the South 208th Street/92nd Avenue South intersection if the City of Kent were to implement such a mitigation.

Mr. Brown in his testimony suggested that the high accident rate on South 208th Street east of 92nd Avenue South at the base of the hill was due to the excessive speeds of eastbound traffic accelerating up the grade. This interpretation is not supported by neighborhood testimony, Mr. Brown's own data or common sense. Rather, it appears to be the downhill speeding traffic that primarily causes the accident problem. This is shown by the City of Kent corridor accident data attached to Mr. Brown's report, where one observes that the vehicle causing the accident is almost always the westbound vehicle going downhill. This is most explicitly demonstrated in the data for the six single-car accidents, where a vehicle hit either a parked car or other stationary object. In each of these incidents, the vehicle causing the accident was traveling downhill toward the west.

34. Much of the information concerning winter weather risks on South 208th Street was developed within the dialogue between the Applicant and the Kent School District concerning bus service to Copper Ridge to pick up and deliver school children. The eventual outcome of this discussion was a bus stop design on South 208th Street west of the plat entrance that will be set back 17 feet from the roadway pavement edge and feature protective amenities. The bus stop, however, does not address the problem of what will happen when South 208th Street is iced up and school buses cannot travel the roadway, or the roadway is closed entirely to traffic use. In such cases, school children will need to be picked up and delivered near the 92nd Avenue South/South 208th intersection at the bottom of the hill, then walk up to Copper Ridge. This is perhaps not an overwhelming problem when South 208th Street between 92nd Avenue South and 96th Avenue South is completely closed to all traffic, and children can simply walk in the middle of the roadway without fear of danger. But when school bus delivery is forced to occur at the bottom of the hill yet South 208th Street remains open to traffic generally, the danger would be extreme. The 300 foot section on South 208th Street east of the 92nd Avenue South intersection, which features a high accident rate and poor sight distance, only possesses a two-foot gravel shoulder on the north side bordered by a drainage ditch and an equally narrow shoulder at the edge of a steep decline on the south. It is unthinkable that school children should have to walk along such a narrow shoulder either uphill or downhill in icy conditions when there is traffic on the roadway. Although steep gradients must be crossed which may require sections of stairway, the only acceptable answer to this dilemma is to provide a pedestrian walkway through Copper Ridge down to 92nd Avenue South.

35. Related to the school bus problem is the predicament of adult site residents who return home in their vehicles to find that they either cannot negotiate the South 208th hill due to icy conditions or that the roadway section has been completely closed. Under such circumstances, these

residents will need to park their cars at the base of the hill and walk to their homes. Again, these residents would be placed at risk if there were no pathway from 92nd Avenue South into the plat. Moreover, the need to park on 92nd Avenue South during inclement weather requires that the shoulder adjacent to the site be improved to an eight foot width rather than the four foot minimum currently proposed.

36. Finally, as Mr. Kastien noted, the 1992 road variance approval for cul-de-sac length of up to 950 feet based on County fire marshal review does not take into account that the fire regulations for the City of Kent appear to limit driveways off the turnaround bulb to a total length of 150 feet. The most northerly unit of the proposed Copper Ridge development is approximately 250 feet from the turnaround bulb. Although we are not in a position to anticipate the results of fire safety review, clearly approval of the internal road design for Copper Ridge must include appropriate fire safety review, and it is possible that the internal roadway system may need to be redesigned as a consequence of that procedure.

Plat/Planned Unit Development

37. In 1991 at the time of the original Copper Ridge application, the 9.64 acre site was zoned SR 9600. The SR zone was created under the Title 21 Zoning Ordinance as a transitional classification between rural and urban uses. When proposed for development at urban densities, SR-zoned properties are generally subject to the development requirements established for the RS single-family dwelling district. Both the SR and RS zoning classifications list planned unit developments as permitted uses. The planned unit development provisions of KCC Chapter 21.56 are intended to provide design flexibility so that an applicant may efficiently address the special features of the property.

38. The procedure for approving a planned unit development proposal is generally set forth in KCC 21.56.030A. The approval process provides that after staff review, "the examiner shall determine that the plans comply with the development policies of the comprehensive plan, community plan policies, area zoning guidelines,…the purpose of this title, and provisions of this chapter. The applicant shall be responsible for demonstrating consistency with these requirements at the time of application and at public hearings." Pursuant to this process, the hearing examiner makes a written recommendation to the County Council, which in turn confers preliminary approval on the planned unit development. KCC 21.56.050 provides for the consolidation of a planned unit development proposal with a preliminary plat application.

39. As set forth in KCC 21.56.140, the density of residential development allowed within a PUD requires the calculation of a net development factor, which in the case of Copper Ridge mandates the exclusion from the total developable area of 75 percent of those on-site areas having 40 percent slopes. The net development factor expressed in acres is then further multiplied by the base units per acre applicable to the zone as well as the bonus units per acre derived from the provision of specified amenities. The worksheet submitted by DDES staff attributes to Copper Ridge a net development factor of 9.23 acres based on the exclusions described at KCC 21.56.140.

40. As pointed out by Mr. Kastien, the base density for the Copper Ridge property is also subject to a competing procedure stated within section 10 of the 1990 Sensitive Areas Ordinance. This provision authorizes a density credit equal to 100 percent of the net parcel area only if the

percentage of the site in designated sensitive areas and buffers is less than 10 percent. Sites possessing between 11 and 20 percent designated sensitive areas and buffers receive a density credit of 90 percent. As applied to Copper Ridge to calculate the appropriate density credit, the gross parcel area would need to be reduced by the area of regulated steep slopes and their buffers and by the extent of any on-site buffers attributable to off-site wetlands. The section 10 density credit calculation does not apply to erosion hazard areas and, folio mapping notwithstanding, no landslide hazard areas have been determined to exist on the property. If Copper Ridge were subject to a 90 percent density credit rather than 100 percent, the acreage qualifying for density calculation would be 8.676 acres, which at a 9600 square foot lot size would support 39.36 dwelling units. In other words, if after reduction of the gross acreage by the regulated steep slope areas and their buffers plus any impinging wetland buffers the acreage excluded in sensitive areas exceeds 10 percent, the Copper Ridge proposal would be subject to losing one dwelling unit under the KCC 21.54.080 calculation.

41. DDES staff initially argued that the KCC 21.54.080 density credit process was preempted by the KCC 21.56.140 calculation, but the regulatory language does not support this position. Section 10 of Ordinance 9614 (KCC 21.54.080) applies without qualification to "development proposals," and section 3.B lists planned unit developments as subject to SAO requirements. Moreover, section 3.A states that when SAO requirements conflict with other County code requirements, "that which provides more protection to the sensitive areas shall apply." The discussion of the actual effect of these density requirements on the application remains conjectural pending a more precise calculation of the portions of the Copper Ridge site subject to the sensitive areas exclusion. Condition no. 4, however, has been revised to provide for the density reduction mandated by the SAO if the measurements so require.

42. Returning to the PUD process itself, the second potentially controversial operation required by the ordinance is the determination of bonus units under KCC 21.56.170. Here the 1963 Zoning Code origins of the PUD ordinance become apparent when one sees that an applicant can receive bonus points for such now commonplace amenities as sewer and water availability and the use of a professional design and development team. The categories in which DDES staff has recommended bonus unit credit under less than obvious circumstances are for significant recreation areas to be "developed and equipped with such features as, but not limited to, trails, landscape passive or open areas, pools, tennis courts, children's play areas, etc."; public transit "available within walking distance (approximately one-half mile)" on a twice-hourly basis during morning and evening peak hours; and a crime prevention plan "incorporating locks, dwelling unit lighting, street lighting, doors, windows, and alarms." Although use of a security gate ultimately may not be permitted, compliance with crime prevention plan requirements is certainly feasible, and staff review can assure that such compliance is provided. Similarly, a recreation plan needs to be submitted that offers the facilities mandated by code. In this respect, if a pedestrian path is required down slope to 92nd Avenue South, such an amenity also could contribute to the recreation plan.

43. Qualification for the public transit bonus credit is more problematic. The twice-hourly service within approximately one-half mile requirement can be met both to the east and west, with transit stops located uphill along the arterial section of South 208th Street at 98th Place South and downhill to the west on 84th Avenue South at South 208th Street. The real question here is, in view of the steep grades, narrow shoulders, high traffic flows and often dangerous walking conditions between the plat entrance and the bus stops, can these public transit facilities reasonably be said to be "available" to Copper Ridge residents? Our view is that without any

route offsite to a safe walking location, the answer is probably no. If, however, a pathway is provided down to 92nd Avenue South, pedestrian travel to public transit locations can be deemed feasible and the credit conferred.

44. Near the end of the public hearing the Applicant's project manager disclosed that the Applicant was contemplating a later request for bonus unit credit for off-site convenience shopping facilities based on the anticipated construction of the retail center at the South 212th Street/SR 167 intersection, approximately seven-tenths of a mile from the site via the easterly uphill route. This statement evinces a misunderstanding as to how the PUD bonus credit approval process works. While detailed review of plans to achieve bonus credits may reasonably be deferred to later staff analysis, the PUD ordinance requires at a minimum that the bonus credit request be disclosed at the public hearing and a determination of feasibility made. This is consistent with the provision of KCC 21.56.030A quoted above requiring at the hearing that the applicant shall demonstrate consistency with PUD requirements, and with the KCC 21.56.120 preclusion of post-hearing staff adjustments to the PUD authorization that increase the number of dwelling units. In short, basic review of a request for bonus credit for the proposal's accessibility to convenience shopping facilities must occur at the hearing level.

45. KCC 21.56.170B.4.b confers bonus credit for offsite convenience shopping facilities that are "functionally accessible within reasonable walking distance (approximately one-half mile)." Without belaboring the distance requirement, it seems clear that a shopping center more than a half mile away can only be functionally accessible if there are safe and adequate pedestrian walking facilities between the PUD site and the commercial facility. This is a higher standard of convenience than required for public transit bonus credit, presumably because walking home from shopping is deemed feasible only if one can safely and comfortably carry a modest amount of purchased goods. It is our view that the functional accessibility requirement cannot be met along the section of South 208th Street east of the site where a steep road is only served by a narrow, unpaved shoulder as a pedestrian walkway. Copper Ridge therefore does not qualify for this bonus density credit.

CONCLUSIONS:

SEPA Appeal

1. The basic standard to be applied to the review of a threshold determination appeal is that the SEPA record must demonstrate the actual consideration of relevant environmental impacts. With respect to those relevant impacts shown to be actually considered, the decision of the SEPA official is entitled to substantial weight on review and shall not be overturned unless clearly erroneous based on the record as a whole.

2. In conjunction with the SEPA statute and regulations, KCC 20.24.070.B confers upon the hearing examiner broad authority to impose such conditions, modifications and restrictions on the appeal decision as may be required to make it compatible with the environment and carry out applicable statutes, regulations, codes, plans and policies. This authority supplements the SEPA appeal standards and allows specific conditions of mitigation to be imposed or modified to address adverse environmental impacts, independent of whether the determination of non-significance is found overall to be clearly erroneous.

3. The SEPA record discloses actual consideration by the Department of Development and Environmental Services and by the City of Kent of the potential environmental impacts of this proposal. The Appellants have not met their burden of proof to demonstrate that the determination of non-significance is either contrary to law or inadequately supported by the record and, therefore, clearly erroneous with respect to alleged geotechnical hazards, groundwater impacts, drainage impacts to downstream water quality and the capacity or integrity of conveyance systems, traffic levels of service, wetlands and wildlife.

4. Potential adverse impacts are demonstrated by the record with respect to traffic and pedestrian safety on South 208th Street between 96th Avenue South and 92nd Avenue South. Regarding the former, the historic accident rate at the South 208th Street/92nd Avenue South intersection suggests that similar safety problems could occur at the new plat access road entry. Mitigation for these potential impacts will be implemented by the entering sight distance improvements required under the County road variance, which will provide adequate sight distance in the eastern uphill direction and greatly improve sight distance on the downhill, western side. Since left turns, both into and out of the site, depend primarily on the adequacy of the uphill sight distance measurement, and the quantity of traffic generated by Copper Ridge will be a relatively small percentage of the total flow, potential traffic impacts appear to be adequately mitigated. Moreover, the Applicant has offered to contribute a pro-rata share to traffic calming devices at the South 208th Street/92nd Avenue South intersection if the City of Kent deems such improvements to be warranted as a further safety mitigation, and a condition to such effect has been recommended.

5. The potential for an adverse impact to pedestrian safety will occur under icy weather conditions that prevent school buses and some vehicles from successfully traversing the steep gradient on South 208th Street adjacent to the site, but which may not be sufficiently severe to warrant total closure of the road section. Under such circumstances, school children will need to meet the school bus at the bottom of the hill at the 92nd Avenue South intersection, walking up or down the steep 208th Street grade to the site entrance along a narrow gravel shoulder under dangerous traffic conditions. A similar situation will confront Copper Hill adult residents who are forced by winter weather to park at the bottom of the hill.

6. These pedestrian safety impacts can be mitigated by providing additional shoulder width along 92nd Avenue South for emergency parking and constructing a pedestrian path from 92nd Avenue South into Copper Ridge. If such mitigations were provided, the adverse impacts to pedestrian safety would be mitigated, the decision of the SEPA official would not be clearly erroneous, and the probability of significant adverse environmental impacts resulting from the proposal would be avoided.

7. In recognition of the fact that more than twelve years have transpired between the initial submission of the Copper Ridge application to King County in 1991 and the issuance of a determination of non-significance by the City of Kent in 1993, the pre-hearing order issued for this proceeding requested the parties to brief the question of what substantive authority should apply to this project under SEPA if the Examiner were to determine that unmitigated adverse environmental impacts exist. Thoughtful and well-researched briefs have been submitted on this issue by the Applicant, King County and the City of Kent. The King County Prosecuting Attorney's Office identified four legally defensible vesting points for SEPA purposes, those being the 1991 application date, the 2003 DNS date, and intervening times based on when the threshold determination ought to have been issued and the date of the first County DS issued in

1992. In choosing among these, the Prosecutor's Office diplomatically suggests that the Examiner should defer to the City's determination of the appropriate vesting date for the Copper Ridge application. The City's brief, in turn, identifies and argues for a fifth possibility, that Copper Ridge should be vested to the City's SEPA policies in effect in 1993 when the property was annexed to the City. The memorandum for Schneider Homes argues in favor of the 1991 application date for vesting the proposal to the County's SEPA policies.

8. WAC 197-11-660(1)(a) adopted in 1984 states that "mitigation measures or denials shall be based on policies, plans, rules, or regulations formerly designated by the agency…as the basis for the exercise of substantive authority and in effect when the DNS or DEIS was issued:" But in light of appellate court cases interpreting the Washington vested rights doctrine, no one has argued that this WAC provision should be applied unconditionally to a proposal where the time elapsed between the initial application date and the DNS exceeds twelve years. The rationale for declining to apply WAC 197-11-660(1)(a) literally as written was well summarized in the City of Kent's legal brief:

> "A simple reading of WAC 197-11-660(1)(a) would say that Schneider Homes vested to the City of Kent's substantive SEPA policies in effect on August 11, 2003, when the City issued its DNS. These policies are listed in section 11.03.510 of the Kent City Code. This analysis, while easy, would ignore the complicated history of this case to the effect of violating the applicant's substantive due process rights, and perhaps rending (sic) the decision in *Schneider Homes* meaningless.
>
> "….in the rare case where city officials clearly frustrated a developer's diligent, good faith efforts to complete the permit process, due process considerations of fundamental fairness require a court to look beyond whether a developer technically met the requirements of vesting. [Citation omitted.] When these rare circumstances are present,…the developer vested to the rights it would have vested to in the absence of frustration by city officials. [Citation omitted.]
>
> "The City believes that the facts of this case show that Schneider Homes has diligently made good faith efforts to reach the point in the application process where a threshold determination would be made and substantive SEPA policies would vest. Schneider Homes was technically not able to reach this point until August of 2003 because rather than issue its own threshold determination when it obtained jurisdiction over Copper Ridge, the City took the position that the PUD was not vested, which led to lengthy litigation. While the City acted in good faith in arguing that a floating PUD did not vest, it nevertheless frustrated Schneider's efforts to obtain a threshold determination and vest to substantive SEPA policies."

9. There are two variables to be analyzed in determining SEPA vesting for the instant case; first, what the appropriate vesting dated for SEPA policies should be, and second, whether the policies vested to should be those of King County or the City of Kent. Bearing on these issues are not only the applicable statutes, regulations and court interpretations of the vesting rights doctrine, but also the arrangements that have been concluded among the parties for addressing these questions. With respect to this last matter, the 1996 interlocal agreement between King County and the City of Kent treated of annexation properties generally, stating at section 2.1 that "the

County shall continue to process those vested land use related applications filed with the County before the effective date of annexation which involve property within the Annexation Area. Processing shall occur in accordance with those County regulations under which the application is vested… The City will determine whether the land use application is vested."

In 1999 after conclusion of the litigation between the City and Schneider Homes, the two parties entered into a settlement agreement that provides in pertinent part as follows: "The laws, ordinances, and policies to be applied to review of these applications will those in effect at the time that the applications vested.…The intent of the parties is to process these applications as nearly as possible as if review had been completed by King County in 1993 without annexation."

The terms of the settlement agreement were implemented by a 2000 amendment to the 1996 interlocal agreement between the County and Kent that dealt specifically with Copper Ridge. This amendment provided that "County review of these applications shall be based upon County codes in effect at the time such applications were initially submitted to King County prior to annexation."

10. The precise legal effect of WAC 197-11-660(1)(a) has never been judicially determined and its status remains a source of endless speculation and controversy. Nonetheless, we see no basis for according it no legal effect at all as suggested by the Applicant. The regulation has survived unscathed since 1984, and the concept that the SEPA vesting date may be different than the application vesting date has received tacit statutory recognition in RCW 58.17.033(3) dealing with subdivisions and in RCW 19.27.095(6) regarding building permits. Both statutory provisions provide that the application date vesting requirements being specified therein "shall not restrict conditions imposed under chapter 43.21C RCW."

11. On the other hand, it is clear that the vesting case law does not contemplate a situation where the local agency may defeat SEPA vesting by arbitrarily and endlessly manipulating the environmental review process. Although nowhere specifically articulated, the cases appear to suggest overall that while the SEPA vesting date may occur after submission of a complete application, to be valid such later vesting date must occur within a reasonable time in the ordinary course of processing the proposal application. Whether or not one considers the administrative appeal and resultant remand of the initial County DS issued for Copper Ridge have been an expedient procedure, surely no argument exists for extending the SEPA vesting date beyond mid-1993 without risking impairment to Schneider Homes' substantive due process rights.

12. While we believe the City of Kent's rationale for preferring a 1993 vesting date is compelling, we see no basis for concluding that the City's policies rather than the County's policies ought to be applied to Copper Ridge. Although the City's SEPA policies may have been theoretically in effect at the time of annexation, in reality Copper Ridge has not been analyzed pursuant to City regulations and policies at any time during the past 12 years, either before or after annexation. Under such facts, we believe the term "in effect" as used in WAC 197-11-660(1)(a) needs to mean "in actual use." Certainly, this interpretation comports with the arrangements among the parties within the interlocal agreements and the settlement agreement. In particular, with respect to the settlement agreement it actualizes the "intent of the parties…to process these applications as nearly as possible as if review had been completed by King County in 1993 without annexation." Accordingly, it is our recommendation for purposes of SEPA substantive authority

that the policies and regulations applicable to Copper Ridge ought to be those in effect in King County in 1993 immediately prior to annexation.

13. Mercifully, the issue of the basis for SEPA substantive authority is not a source of major concern under the facts of this case. Only the new condition requiring a pedestrian pathway from the developed portion of Copper Ridge downslope to 92nd Avenue South appears to necessitate invocation of SEPA substantive authority, in this case 1985 Comprehensive Plan policies F-201, 204, 206, 216F and 234. In addition, the pathway requirement is supported by Soos Creek Community Plan policies R-25 and 27. But in view of the authority conferred on the hearing examiner at KCC 21.56.030A and 20.24.070D, it may also be argued that the pathway requirement may be imposed without recourse to SEPA support.

Plat/PUD

14. The Copper Ridge proposal clearly qualifies as a planned unit development under the provisions of KCC Chapter 21.56. The SR 9600 zone specifically authorizes planned unit developments based on the residential uses permitted in the RS zone. Townhouses are permitted uses in the RS 9600 district. The only unknown of any consequence is the verification of the net development factor required under 21.56.140, and condition no. 3 within the staff recommendation has been modified to detail that process. Other minor modifications of the proposed conditions have been made either to spell out procedures and requirements that are implicit in the review analysis or which have been elucidated by the hearing record. The potential effect of the net development factor recalculation on the proposal may be to reduce the number of dwelling units from 40 to 39.

15. If approved subject to the conditions imposed below, the proposed planned unit development and subdivision make appropriate provision for the public health, safety and welfare; serve the public use and interest; and meet the requirements of RCW 58.17.110.

16. The conditions of approval imposed herein, including dedications and easements, will provide improvements that promote legitimate public purposes, are necessary to serve the planned unit development and subdivision proposal and are proportional to its impacts; are required to make the proposed planned unit development and plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

Recommended Decision

The SEPA threshold determination appeal of the Coalition for Responsible Development should be DENIED, provided that the attached condition of mitigation under SEPA authority is appended to the plat and planned unit development approval. The plat and PUD applications should be APPROVED for either 39 or 40 dwelling units, pending verification of the net development factor as required within condition no. 3. Accordingly, the plat and PUD applications, as revised and received on April 11, 2003, should be granted preliminary approval subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19 of the King County Code and provisions of KCC 21.56 regulating PUD approval.

2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.

3. The plat shall comply with the density requirements of KCC 21.56.150 through 21.56.180. All lots shall meet the dimensional and setback requirements of KCC 21.56.130. Those lots with a buildings attached on one side shall have a minimum 40 foot width. Those lots with buildings attached on both sides shall have a minimum 30 foot width.

   For purposes of calculating the net development factor under KCC 21.56.140, the planned unit development proposal shall comply with either KCC 21.56.140B(6) or KCC 21.54.080, whichever is the more restrictive. The calculation for KCC 21.56.140B(6) shall require a determination of the total onsite area having 40 percent or greater slopes; the calculation for KCC 21.54.080 shall require a determination of SAO-regulated 40 percent steep slopes onsite plus the buffers mandated therefor under KCC 21.54.250A, and the total onsite area, if any, occupied by the regulatory buffers mandated for offsite wetlands to the southwest.

   If for any reason the pedestrian pathway specified by condition no. 24 below is eliminated as a requirement for project development, the 0.15 bonus unit awarded for public transit availability shall be deleted.

4. The Applicant shall obtain the approval of the City of Kent fire protection engineer certifying the adequacy of the fire hydrant, water main, fire flow and access amenities to meet City standards in accordance with Attachment 4.

5. The proposed stormwater detention and conveyance facilities shall meet the requirements of the 1990 King County Surface Water Design Manual (KCSWDM). The water quality treatment aspects of the stormwater facility shall meet the requirements of the basic water quality menu in the 1998 KCSWDM. The retention and water quality facilities shall be placed in a separate tract owned and maintained by the home owners' association or other workable organization as approved by the City.

6. Offsite drainage conveyance improvements are required along the easterly side of 92nd Avenue South and along the north side of South 208th Street. These improvements shall be designed in general conformance with the conceptual drainage plan received April 11,2003, unless otherwise approved by the reviewing agency.

   A capacity analysis of the existing downstream ditch along the north side of the dead end access road (from 92nd Avenue South to SR 167) shall be submitted at engineering plan submittal. Improvements to this section of the ditch or its culverts are required if adequate capacity does not exist.

7. An interceptor drainage swale and wall drainage system is proposed along the easterly portion of the developed site. The applicant's geotechnical engineer shall provide recommendations for design and construction of the interceptor drainage system, the stormwater detention/water quality facilities, and westerly conveyance pipes connecting to 92nd Avenue South. The geotechnical recommendations shall be included in the T.I.R. and incorporated into the design at submittal and approved by the reviewing agency with the engineering plans.

8. Special geotechnical construction inspection of the above drainage interceptor and stormwater detention system is required to ensure compliance with the geotechnical recommendations, including installation of an impervious pond liner. Inspection reports shall be submitted to the

assigned construction inspector during the construction phases of those facilities. A final construction report shall be submitted to the reviewing agency, verifying compliance with the geotechnical recommendations.

9. "All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."

10. The proposed subdivision shall comply with the 1987 King County Road Standards (KCRS), including the following requirements:

A. The internal access road shall be improved to the urban subaccess street standard. This standard requires sidewalk on one side. An additional sidewalk shall be provided on the west side of the access road, from Lot 40 (at the northwest quadrant of the access road intersection), wrapping around the curb return at South 208th Street intersection, to a point approximately 80 feet (west of the intersection). A "level" (2% maximum cross-slope, east-west, as measured parallel/concentric to South 208th Street) concrete pad pedestrian waiting area, 8 feet by 12 feet along this sidewalk shall be provided at the intersection for school bus pickup area.

The curb returns for the intersection shall be set based upon an ultimate 22 foot half-street section for a neighborhood collector street as measured from the new centerline of South 208th Street. Sufficient width shall be provided at the intersection entry to permit right turns onto South 208th Street when two vehicles are queued to make a left turn movement. The entire portion of the internal access street improvements lying south and east of the curb returns (i.e. south of a line 52 feet north of the realigned South 208th Street centerline) shall be dedicated as public right-of-way. The remainder of the internal access street shall be contained within a separate tract. Ownership and maintenance responsibility for the private portion of the internal access shall be by the homeowners' association or other workable organization. A note to this effect shall be placed on all engineering plans and the recorded final plat

B. The proposed private access road adjoining Lots 17 through 21 shall be improved to the urban minor access street standard, without a sidewalk. Maintenance responsibility for this portion of the road shall be the responsibility of the adjoining lots (17-21) or the home owner's association. A note to this effect shall be placed on all engineering plans and the recorded plat.

C. The proposed joint use driveway adjoining Lots 22 and 23 shall be paved with a minimum of 18 feet wide with controlled drainage.

D. FRONTAGE: South 208th Street shall be reconstructed and realigned along the frontage (with appropriate transitions) according to the approved road variance granted on March 2, 1992 and the conceptual roadway improvement plan dated January 22, 1992. These improvements shall incorporate a 22-foot wide paved roadway, an eight (8)-foot wide gravel shoulder on the south side of the road along the entire length of the realigned

section of South 208th Street and an eight (8)-foot wide paved shoulder along the entire northerly side of the realigned roadway easterly to a point 490 feet from the centerline of the internal access road intersection, except where urban improvements (as noted in Condition 10A, above) are required. The realignment road variance allows a reduced entering sight distance of 385 feet to the west from the proposed internal access road. The variance also allows a rural type improvement for this realignment. All conditions of the road variance shall be met upon submittal of the engineering plans.

Adjacent to the concrete pad pedestrian waiting area, the half-street width (from the centerline of the realigned roadway to the curb line) of South 208th Street shall be 22 feet to provide a bus-pullout outside the traveled-way of the westbound travel lane. This bus pull-out shall be at least 60-feet in length (from the point of curb return on South 208th Street), plus an appropriate length curbed and asphalt paved taper with concrete walkway, to the connection with the proposed shoulder on the realigned South 208th Street improvements.

As required by the reviewing agency, the improvements to South 208th Street may also include the installation of guardrail at locations along the south margin of the roadway. Any sections of guardrail that may be required to comply with this condition shall be located outside of sight lines required for the intersection of the access road and South 208th Street (see 12G and 12H, below).

Although the KCRS does not require illumination on neighborhood collector streets, these improvements shall include any roadway illumination required by the City of Kent. Any additional R/W along the frontage, or, off-site easements, needed to achieve the realignment and sight distance requirements, shall be dedicated to the City of Kent with the final plat.

Traffic control plans for the realignment and regrading of South 208th Street shall be submitted to the reviewing agency for review and approval.

E. Ninety Second (92nd) Avenue South shall be widened across the entire property frontage, and south to the intersection with South 208th Street (per the Road Variance) with a minimum 4-foot wide paved shoulder adjacent to the roadway supplemented by an additional 4 feet of gravel shoulder inside along the easterly side.

F. The hillside on the northerly margin of South 208th Street, east of the plat entrance road, shall be regraded to an elevation at least 6 inches (0.5 feet) below the sight line elevations as required, with the construction of an engineered retaining wall/rockery, to achieve the required (minimum) 490 feet of entering sight distance to the east. The graded area between the toe of the wall and the shoulder improvements required (Condition 10D, above) shall be paved to minimize the potential of regrowth of vegetation into the sight triangle.

G. Road improvements shall achieve the following sight distance criteria as required by the approved road variance:

(1) 385-feet of ESD approved by the Road Variance for the area within the sight triangle on the south side of South 208th Street, west of the subdivision access road,

(2) 490-feet of ESD for the area within the sight triangle on the north side of South 208th Street, east of the subdivision access road,

(3) In addition to the re-grading and vegetation removal required to achieve the required Entering Sight Distance, 250-feet of Stopping Sight Distance (SSD) is also required at all points along the realigned section of South 208th Street (refer to Staff Attachment 6 within Exhibit no. 2) and will extend outside of the limits of the required ESD sight triangles,

(4) In addition to the re-grading and vegetation removal required to achieve the required ESD and SSD, the 500 feet of visibility to and from the east of the plat access and of the school bus stop west of the access road intersection is also required and may extend outside of the limits of any of the ESD/SSD sight triangles required of conditions above, and

(5) In addition to the re-grading and vegetation removal required by the preceding, any additional area required to provide 500 feet of visibility for the proposed school bus stop at the west side of the project entrance.

The area within each identified sight line corridor shall be re-graded and/or cleared of all sight line corridor impairments from a point at least 6 inches (0.5 feet) below the applicable sight line elevations, and in the case of overhanging vegetation (tree limbs) six (6) feet above the requisite sight lines' elevations. Preservation of the identified sight lines/corridors by encroachment of re-growth of vegetation (between regularly scheduled City maintenance operations) shall be provided by extending, in the horizontal plane, the required clearing limits by two (2) feet.

Additionally, the applicant shall evaluate potential measures to minimize the re-growth of sight-obscuring vegetation into these sight triangles (for example, 'weed block' fabric, gravel [or a combination of gravel and 'turf block'], and hydroseeding) without the creation of an overall impervious surface, and submit plans for review, approval and construction, to the reviewing agency.

The criteria that shall be used for the measurement of sight distance are as follows:

Design Speed:	35 MPH
Driver's Eye Height	3.5 feet
Entering Sight Distance Object Height	4.25 feet
Stopping Sight Distance Object Height	0.5 feet

Special construction inspection shall be done by the applicant during the re-grading and re-construction of South 208th Street and during the clearing and grading of the hillsides/vegetation to achieve the sight distance requirements identified above. To ensure achievement of the sight distance and the stopping and entering sight distances (SSD, ESD) requirements and the school bus stop visibility, these measurements shall be field-verified by a licensed surveyor following the construction of all required improvements.

H. If determined to be feasible by the reviewing agency, after a geotechnical evaluation of the area, it is recommended that the hillside at the northeast corner of 92nd Avenue South/ South 208th Street be re-graded to increase the entering sight distance (looking right, out of the plat entrance) above the 385-foot ESD as approved by the road variance. This may require a gravel surface shoulder be constructed where the hillside is graded.

I. The Applicant and the City of Kent will review the accident history for the portion of South 208th Street that lies directly east of its intersection with 92nd Avenue South. If the City determines that traffic calming measures (such as a traffic circle) or other road improvements are necessary for traffic safety, the Applicant shall contribute its fair share of the cost of such improvements.

J. Modifications to the above road conditions may be considered in accordance with the variance procedures in Section 1.08 of the KCRS, or, by the Director of Public Works of the City of Kent.

11. All utilities within proposed rights-of-way must be included within a franchise approved by the Kent City Council prior to final plat recording.

12. This subdivision application was filed prior to the adoption of King County Code 14.75, Mitigation Payment System (MPS). Per the City of Kent's 1993 traffic mitigation requirements, the applicant shall, at the discretion of the City of Kent Public Works Department, either pay the applicable pro-rata share cost towards the cost of the South 192nd/ 196th/ 200th Street Corridor project (East leg) based upon an estimated 33 PM peak hour trips and the capacity of the South 192nd/ 196th/ 200th Street Corridor, or, execute an Environmental Mitigation Agreement (EMA) to financially participate in, and pay a pro-rata share towards, the South 192nd/ 196th/ 200th Street Corridor project (East leg) based upon 33 PM peak hour trips.

13. The planter islands within the cul-de-sacs shall be planted with native plant materials and be maintained by the homeowners association. This shall be stated on the face of the final plat and PUD.

14. The proposed subdivision shall comply with the 1990 Sensitive Areas Code. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.

15. The top, toe and sides of onsite 40% slopes shall be determined by field survey. A *50*-foot buffer shall be provided for these slopes. This buffer may be reduced to a minimum of 10 feet plus a 15-foot Building Setback Line (BSBL) with the submittal of a satisfactory geotechnical report, subject to review and approval by the reviewing agency's geologist prior to engineering plan approval. The 40% steep slope areas and their associated buffers shall be placed in a Native Growth Protection Easement(s) (NGPE). Final engineering review shall include verification of the conclusions of the 1992 Golder Associates geotechnical report and require implementation of its recommendations, as modified. Any city-required consultant peer review of the geotechnical report shall be paid for by the Applicant.

16. The Applicant shall delineate all on-site erosion hazard areas on the final engineering plans (erosion hazard areas are defined in KCC 21.04.345). The delineation of such areas shall be approved by the reviewing agency's geologist. The requirements found in KCC 21.56.170

concerning erosion hazard areas shall be met, including seasonal restrictions on clearing and grading activities.

17. The following note shall be shown on the final engineering plan and recorded plat:

Building Setback and Native Growth Protection Easements

Structures, grading, fill and obstructions) including, but not limited to decks, patios, outbuildings, or overhangs beyond 18 inches) are prohibited within the building setback line (BSBL) and within 25/100 year floodplains (if applicable), and within the Native Protection Easement(s).

Dedication of a Native Growth Protection Easement (NGPE) area and buffer conveys to the public a beneficial interest in the land within the easement. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The NGPE imposes upon all present and future owners and occupiers of the land subject to the easement, the obligation, enforceable on behalf of the public by City of Kent, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the easement may not be cut, pruned, covered by fill, removed or damaged without approval in writing from theCity, unless otherwise provided by law.

Before beginning and during the course of any clearing, grading building construction or other development activities on the site subject to NGPE, the common boundary between the easement and the area of development activities must be fenced or otherwise marked to the satisfaction of the reviewing agency.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

18. A suitable recreation space within the common open space area for active recreation shall be provided. The recreation space shall be a minimum 45 square feet per lot with no dimension less than 30 feet. The area must be flat (no greater than 5% slope) centrally located, and with adequate access to the main road. The recreation area shall be developed with play equipment (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.) and landscaping.

A. An overall conceptual recreation space plan shall be submitted for review and approval by City of Kent, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, and general improvements including landscaping. The approved engineering plans shall be consistent with the overall conceptual plan.

B. A detailed recreation space plan (i.e., landscape specs, equipment specs, play area, etc.) consistent with the overall conceptual plan, as detailed in item A, shall be submitted for review and approval by the reviewing agency prior to or concurrent with the submittal of the final plat documents. The landscape plan shall include as many significant existing vegetation as possible.

C. A performance bond for recreation space improvements shall be posted prior to recording of the plat and PUD.

D. The common open space areas including the sensitive areas shall be placed in a separate tract(s). All lots shall have an undivided ownership of the Open Space Tract(s) and be responsible for its maintenance.

19. A detailed crime prevention plan shall be submitted to the reviewing agency for review and approval. The plan shall include a detailed lighting plan and other safety measures. The crime prevention plan shall be approved by the reviewing agency prior to the final engineering plan. No lights within the development shall project onto the neighboring properties.

20. The proposed project shall generally conform with the building elevation and floor plans submitted April 8, 2002. The proposed building coverage and other dimensions shall comply with KCC 21.56.110 and KCC 21. 20.

21. A homeowners' association or other workable organization shall be established to the satisfaction of City of Kent which will provide for the ownership and continued maintenance of the common open space/ sensitive area tract(s), play area, and the private road and access tracts.

22. Street trees shall be provided as follows:

A. Trees shall be planted at a rate of one tree for every 40 feet of frontage along the private road (Tract X) and the north side of South 208th Street. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.

B. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless the reviewing agency determines that trees should not be located in the street right-of-way.

C. If it was determined that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.

D. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization. Ownership and maintenance shall be noted on the face of the final recorded plat.

E. The species of trees shall be approved by the City of Kent if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.

F. The Applicant shall submit a street tree plan and bond quantity sheet for review and approval by the City of Kent.

H. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat and PUD. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat and PUD. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and

held for one year. After one year, the maintenance bond may be released after the reviewing agency has completed a second inspection and determined that the trees have been kept healthy and thriving.

23. Appropriate school impact fees shall be paid prior to issuance of a building permit for each lot/residential unit.

The following condition is required under SEPA authority to mitigate the adverse environmental impacts of the proposal:

24. A pedestrian pathway shall be constructed connecting 92nd Avenue South to the internal plat access road, as approved by the reviewing agency.

Substantive authority: 1985 King County Comprehensive Plan Policies F201, 204, 206, 216F, and 234; 1991 Soos Creek Community Plan Policies R-25 and 27.

RECOMMENDED this 23rd day of January, 2004.

_____

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 23rd day of January, 2004, to the parties and interested persons of record:

Kim Adams-Pratt
City of Kent
220 Fourth Ave. S.
Kent WA 98032

Charlene Anderson
City of Kent
220 Fourth Ave. S.
Kent WA 98032

Orville Anderson
9425 S. 207th Pl.
Kent WA 98031

Paul & Lisa Bartholomew
20437 - 94th Ave. S.
Kent WA 98031

Chris Brown
Christopher Brown & Associates
9688 Rainier Avenue South
Seattle WA 98118

Tom & Mary Byrne
9423 S. 204th Pl.
Kent WA 98031

Chestnut Ridge Homeowners Assoc.
Attn: Diane Forland
20524 - 97th Ave. S.
Kent WA 98031

Steve & Joni Concillado
20212 - 94th Pl. S.
Kent WA 98031
Auburn WA 98002

DMP Inc.
Attn: Mel Daley
726 Auburn Way N.

Lt. Mike Evans
Kent Fire Dept.
220 Fourth Ave. S.
Kent WA 98032

R.W. Gathman
20607 - 95th Ave. S.
Kent WA 98031
Kent WA 98032

Gary Gill
City of Kent
220 - 4th Ave. S.

Linda Greene
Chestnut Ridge Homeowners Assoc.
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Kent WA 98031

David & Karen Harris
20622 95th Ave. S.
Kent WA 98031

Normandy & Brian Jencks
9420 S. 207th Pl.
Kent WA 98031

John & Norma Kastien
20609 - 94th Ave. S.
Kent WA 98031

Richard Lin
20509 - 94th Ave. S.
Kent WA 98031

Richard Miller
20204 92nd Ave. S.
Kent WA 98031

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Site Development Services
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220 Fourth Ave. S.
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Lori & Gary Westerlund
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Carol Rogers
LUSD/CPLN
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Larry West
DDES/LUSD
Geo Review
MS OAK-DE-0100

Bruce Whittaker
DDES/LUSD
Prel. Review Engineer
MS OAK-DE-0100

Kate Rhoads
DNR&P
MS KSC-NR-0600

MINUTES OF THE DECEMBER 9, 2003, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. S91P0001B, S91U0001B & L00MI091.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Fereshteh Dehkordi, Larry West, Bruce Whittaker, Kate Rhoads and Kristen Langley, representing King County DDES; George Kresovich, representing the Applicant; John Kastien and Edward Shemeta, representing the Appellants; Kim Marousek, representing the City of Kent; and Richard Miller, Brian Jencks, Randal Thomson, Ronald Melby, Cliff Knitter, Christopher Brown, Mel Daley, Norma Kastien, Diana Woodward and Ken Peckham.

The following exhibits were offered and entered into the record on December 9, 2003:

Exhibit No. 1	Department of Development and Environmental Services File No L00MI091.
Exhibit No. 2	Department of Development and Environmental Services Preliminary report, dated December 9, 2003.
Exhibit No. 3	Applications for both plat & PUD preliminary approval received January 28, 1991.
Exhibit No. 4	Revised Environmental Checklist received May 29, 2003.
Exhibit No. 5	SEPA recommendation to the City of Kent dated June 23, 2003.
Exhibit No. 6	Determination of Non Significance issued by the City of Kent dated August 11, 2003.
Exhibit No.7	Notice of appeal of the SEPA threshold determination dated September 5, 2003.
Exhibit No.8	Affidavit of Posting received by the Department of Development and Environmental Services on October 23, 2001 indicating the posting of the property.
Exhibit No. 9	Site Plan dated April 11, 2003 consisting of: a. Preliminary Plat b. Preliminary Planned Unit Development c. Preliminary Conceptual Drainage Plan d. Preliminary Conceptual Clearing & Grading Plan e. Crime Prevention Plan
Exhibit No. 10	Conceptual Landscape Plan received February 25, 2003.
Exhibit No. 11	Conceptual Elevation and Unit Floor Plans (3 pages) received 4/08/02
Exhibit No. 12	Land Use Map Kroll pages 608 E & W and 613 E & W (attached as one map)
Exhibit No. 13	Assessors maps (4), NE & NW 7-22-05 and SE & SW 6-22-05.
Exhibit No. 14	East Hill Terrace Wetland Determination and Delineation report by Talisman Land Resource Consultants dated September 1990.
Exhibit No. 15	Wetland Analysis Report by B-twelve Associates, Inc. dated October 9, 2002.
Exhibit No. 16	Level 2 Off-site Analysis by Daley-Morrow-Poblete, Inc., dated May 17, 2001, revised December 2, 2001, and revised November 8, 2002,
Exhibit No. 17	Preliminary Geotechnical Engineering study by Golder Associates dated March 18, 1992.
Exhibit No. 18	Traffic Impact Analysis by Christopher Brown & Associates dated April 25, 2001.

Exhibit No. 19	Traffic Impact Analysis-Supplement by Christopher Brown & Associates dated February 18, 2002.
Exhibit No. 20	Supplemental Traffic Impact Analysis by Christopher Brown & Associates dated October 31, 2003.
Exhibit No. 21	Supplemental TIA, 'Analyses of Intersection with less than 10 vph" by Christopher Brown & Associates dated November 12, 2003.
Exhibit No. 22	Interlocal Agreement between King County and the City of Kent and its amendment dated 3/20/96 and 11/1/2000 respectively.
Exhibit No. 23	Letter from Kent School District dated November 15, 2001
Exhibit No. 24	Road Variance Decision dated March 2, 1992
Exhibit No. 25	Diagram of project roadway entrance, depicting existing and future site improvement
Exhibit No. 26	Traffic study by Kittleson & Assoc., dated 2/14/02
Exhibit No. 27	Copy of pg. 9 of the King County SEPA Checklist for 97-345 Copper Ridge
Exhibit No. 28	Sensitive Areas map folio dated December 1990
Exhibit No. 29	Maps (3) of subject area depicting landslide and erosions areas
Exhibit No. 30	Photographs (a & b, dated late summer 1990; c & d, dated 11/25/90; and e & f, dated 6/16/97) of subject property and nearby roadway
Exhibit No. 31	Photographs (a-c) of subject property, dated 5/6/01, 10/31/03, and 10/31/03 respectively
Exhibit No. 32	Excerpt from 1990 sensitive areas ordinance page 956, 21.54.040
Exhibit No. 33	Letter from Paul Prochaska dated 11/13/03
Exhibit No. 34	Documents (2) regarding Garrison Creek improvement award, attached map w/photo inset
Exhibit No. 35	Calculations estimates re: detention pond holding capacity
Exhibit No. 36	Outline of comments by Edward Shemeta re: safety, traffic and intersections w/attached diagrams & charts
Exhibit No. 37	Nu-Metrics Traffic Analyzer Study for S. 208 St. between 92 Ave. S/96 Way S., dated 9/23/03
Exhibit No. 38	Entering site distance chart
Exhibit No. 39	Letter from Fereshteh Dehkordi to Ken Peckham dated 11/19/01, and attached response to Plat Screening Transmittal from dmp, inc., dated 1/07/02
Exhibit No. 40	Canadian Landscape Fact Sheets – Glacial Meltwater Landforms
Exhibit No. 41	Cross-section illustration of text pit results and well log
Exhibit No. 42	Photos by Richard Miller
Exhibit No. 43	Letter from Ron Jusenius (undated)
Exhibit No. 44	Letter from Lori Westerlund dated 12/9/03
Exhibit No. 45	Memo from Tom and Mary Byrne dated 12/09/03
Exhibit No. 46	Letter from Chestnut Ridge block captains dated 12/09/03

The following exhibits were entered into the record at the December 12, 2003, continued hearing:

Exhibit No. 47	Color drawing entitled "Cap. aquifer/tributary"
Exhibit No. 48	Email letter from Larry and Elise Moyer to John Kastien, dated 12/08/03
Exhibit No. 49	Letter from David and Karen Harris to Kim Marousek dated 11/29/03
Exhibit No. 50	Copy of King County Code, Chapter 21.54 dated 9-90
Exhibit No. 51	King County Development Assistance Bulletin no. 21
Exhibit No. 52	Letter from Clifford Knitter of Golder Associates, Inc., to Schneider Homes, Inc., dated 3/04/92

Exhibit No. 53 Crime Prevention Plan for Copper Ridge with highlighting
Exhibit No. 54 Conceptual Drainage Plan for Copper Ridge with highlighting
Exhibit No. 55 Reprint of newspaper photo of hill slide date 10/22/03
Exhibit No. 56 Emails between John Kastien & Michael Evans, dated 11/30/03 and 12/01/03
Exhibit No. 57 Photos (2 color) of South 208th
Exhibit No. 58 Curriculum vitae of Clifford C. Knitter
Exhibit No. 59 Golder Associates brochure entitled "Around the world Under the earth Above & beyond"
Exhibit No. 60 Map entitled "Accidents by Location" by Christopher Brown & Associates
Exhibit No. 61 Fig. A-1 Poisson and $\chi 2$ Curves for Determining the Statistical Significance of Accident Reductions at the 0.05 Level
Exhibit No. 62 Diagrams and text entitled, "Principles of Capacity"
Exhibit No. 63 Two-way Stop Control Summary printed 12/12/03
Exhibit No. 64 Resume of Christopher Brown, P.E.
Exhibit No. 65 Drainage basin comparison data sheet dated 12/11/03
Exhibit No. 66 Revision to Staff Report, page 13, Section R., paragraphs 2 and 3.

The following exhibits were entered into the record at the December 19, 2003, continued hearing:

Exhibit No. 67 Copy of Conceptual Drainage Plan with red marking indicating the approximate route of Larry West on his most recent site visit
Exhibit No. 68 Addition to condition 10.G, to precede last paragraph
Exhibit No. 69 Drawing by Kristin Langley depicting potential improvements to the site entrance, dated 12/12/03
Exhibit No. 70 Article from the Journal of the American Water Resources Association, Vol. 22, No. 5 (October 1997) entitled "Urbanization of Aquatic Systems…"
Exhibit No. 71 Photograph (1, color) of site from north end of property looking up hill
Exhibit No. 72 Photograph (1, color) of site looking ESE
Exhibit No. 73 Photograph (1, color) Kastien back yard, dated 17 12 13:34
Exhibit No. 74 Copy of newspaper article entitled "Sliding – on a big scale" dated February 28, 1996
Exhibit No. 75 J. Kastien's notes from conversations with Carl Thurman regarding Westridge Condos, dated, 11/10/03
Exhibit No. 76 Letter from Don Walkup, Kent School District; to Mel Daley dated 10/03/02
Exhibit No. 77 Photographs (2, color) of evening traffic on 208th, dated 10/31/03
Exhibit No. 78 Proposed additional condition regarding traffic accident history and potential road improvements

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